

REMARKS

Applicants have carefully considered the matters raised by the Examiner in the outstanding Office Action but remain of the position that patentable subject matter is present. Applicants respectfully request reconsideration of the Examiner's position based on the following remarks.

Claims 15-17, 19 and 20 are pending in this Application. Claims 15, 17, 19 and 20 have been allowed. Claim 16 has been rejected as being anticipated by DeMil. Claim 16 discloses a method for increasing the sugar content of grapes by administering copper salts of caprylic amino acids to grape crops, i.e., when the grapes have been formed on the vine.

The Examiner had rejected claim 16 on two grounds. First, the Examiner had stated that the Application provides no support for treating the grapes when the grapes are on the vine, and furthermore that the period when grapes begin formation on the vine is not clearly ascertainable. Second, the Examiner had cited DeMil for teaching the application of copper salts of caprylic amino

acids when the grapes are on the vine, and had presumed that DeMil inherently teaches an increase in sugar content.

Applicants respectfully disagree with both of the Examiner's positions. Claim 16 is indeed supported in the Application because it is completely clear to one of skill in the art that the grapes must be on the vine in order to increase sugar content. In addition, the present invention differs from the cited sections of DeMil which do not teach treating the grapes when they are on the vine. Rather, DeMil teaches treating the grapes between floral induction and the end of inflorescence. Finally, it would not be obvious to modify the teachings of DeMil to treat the grapes after the end of inflorescence (when the grapes have been formed on the vine), because one of skill in the art would not expect copper salts of caprylic acids to be effective during both the treatment period of DeMil and the treatment period of the present invention. These points will be discussed in turn.

This Application does in fact support treating grapes crops as they exist on the vine. First, the Application clearly contemplates specific application intervals of chemical compounds, and explains that the "moment of

application" of the compounds must be taken into account (page 1, lines 14-15). The Application then goes on to describe different moments of application for different chemical compounds. Copper salts of caprylic-amino acids are described as being effective to increase the sugar content of grapes (page 2, lines 20-22). One of skill in the art readily understands that in order to increase the sugar content of grapes, the grapes must be on the vine. One of skill in the art further understands that treatment at an earlier period results in an increase in crop yield and not an increase in sugar content. Applicants therefore respectfully submit that claim 16 is supported in the Application because one of skill in the art readily understands that the grapes must be on the vine during treatment to increase sugar content.

Applicants also submit that the cited sections of DeMil do not teach treating the grapes when they are on the vine. It appears that the Examiner focused on the word "vines" in the cited sections of DeMil to teach treatment of grapes as they exist on the vine. However, Applicants submit that a fair reading of the cited sections, and more importantly, a fair reading of all of DeMil, reveals that

the cited word "vines" is used to refer to types of plants, not to refer to treatment periods.

In order to further support this position, Applicants wish to summarize the teachings of DeMil. DeMil is concerned with the prevention of floral abortion during agricultural production to increase yield (col. 1, lines 4-9). DeMil does not mention sugar content. DeMil specifically states that floral fertility or yield is increased by treating plants between floral induction and the end of inflorescence (col. 1, lines 41-47). DeMil does not mention any other treatment periods. The first cited section of DeMil explains that a type of plant, "vines", which are sensitive to abortion or low yield, can benefit from the invention of DeMil (col. 2, lines 55-60). The second cited section of DeMil explains the concentration for application to numerous types of plants, such as rice, maize, beans and "vines". Applicants respectfully submit that the cited sections of DeMil use the word "vines" to refer to types of plants, not to refer to treatment periods. Furthermore, any ambiguity in the cited language should take deference to the specific language in DeMil that describes the treatment period as being between the floral induction and the end of inflorescence. Applicants


respectfully submit that DeMil does not inherently teach claim 16.

Finally, Applicants submit that it would not be obvious to postpone the treatment period of DeMil to treat grapes when they are on the vine. Conventionally speaking, one of skill in the art would not expect the same chemical compounds to be effective during both the treatment period of DeMil and the treatment period of the present invention. For example, it is conventionally known that both boron and copper can be effectively added during floral induction to increase flowering, but cannot be effectively added to increase sugar content when the fruit is on the vine. In contrast to this conventional knowledge, the inventors of the present Application have found that copper salts of caprylic amino acids can be effectively added during floral induction to increase flowering (teachings of DeMil), and can be effectively added to increase sugar content when the fruit is on the vine (claim 16). One of skill in the art would not find it obvious that sugar content is increased by the method of claim 16. Applicants respectfully submit that claim 16 is patentable over the teachings of DeMil.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance and such action is respectfully requested. Should any extensions of time or fees be necessary in order to maintain this Application in pending condition, appropriate requests are hereby made and authorization is given to debit Account # 02-2275.

Respectfully submitted,

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